

Group No. 2611
Examiner: Phu, Phuong M
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REMARKS

Claims 1-20 are currently pending in the Application.

Allowable Claims

Applicant acknowledges with gratitude the Examiner's indication of allowability as to Claims 11-20.

35 U.S.C. § 102(b) rejection

1. Claims 1 and 4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Melanson (U.S. Patent No. 6,727,832).

The Examiner is reminded that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131 quoting *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The Examiner is also reminded that "[the] identical invention must be shown in as complete detail as is contained in the ... claim." MPEP 2131 quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). In particular:

Claim 1

Applicant submits that the Examiner has not shown that Melanson discloses, suggests or teaches, inter alia,, the following features recited by Claim 1 of the present application:

"providing at least one higher-order shaper circuit so as to spectrally shape NLIST" (emphasis added)

The Examiner asserts that "providing at least one higher-order shaper circuit so as to spectrally shape NLIST" as recited in Claim 1 is disclosed by Melanson's independent loop filter "210a." See page 2 of the Office Action. Applicant respectfully traverses the Examiner's assertion.

For clarity, Applicant submits that reference number "210a" relied upon by the Examiner is not disclosed in Melanson's Figures 2C and 2D. It is Applicant's assumption that the Examiner is actually referring to the reference number "201a" instead of "210a." Applicant's traversal, below, is based on this assumption.

If the Examiner does not agree with Applicant, the Examiner is encouraged to comply with 37 C.F.R. § 1.104(C)(2) and "designate as nearly as practicable" where Melanson discloses the reference number "210a" on figures 2C and 2D.

Applicant submits that Melanson (6,727,832) does not disclose, suggest, or teaches that the loop filter "201a" can spectrally shape NLISI. In fact, Melanson never mentions NLISI. If the Examiner insists that Melanson's loop filter "201a" inherently filters NLISI, Applicant respectfully requests, under 37 C.F.R. § 1.104(d)(2), that the Examiner provide an Affidavit supporting the Examiner's assertions. Alternatively, if the Examiner is relying on a prior art reference, the Examiner needs to cite the reference. Otherwise, Applicant respectfully requests that the assertion be withdrawn.

Claim 4

Claims 4, at least based on its dependency on Claim 1, is also believed to be patentable over Melanson.

2. Further, Claims 1, 4 and 5 are rejected under 35 U.S.C. § 102(b) as being anticipated by Melanson et al (6,822,594).

Claim 1

Applicant submits that the Examiner has not shown that Melanson et al discloses, suggests or teaches, inter alia, the following features recited by Claim 1 of the present application:

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“providing at least one higher-order shaper circuit so as to spectrally shape NLISI” (emphasis added)

The Examiner asserts that “providing a least one higher-order shaper circuit so as to spectrally shape NLISI” as recited in Claim 1 is disclosed by Melanson et al’s procedure “204” (see figure 2). See page 3 of the Office Action. Applicant respectfully traverses the Examiner’s assertion.

Applicant submits that Melanson et al (6,822,594) does not disclose, suggest, or teach that the procedure “204” can inherently **spectrally shape NLISI**. If the Examiner insists that Melanson et al’s procedure “204” inherently spectrally shape NLISI, Applicant respectfully requests, under 37 C.F.R. § 1.104(d)(2), that the Examiner provide an Affidavit supporting the Examiner’s assertions. On the other hand, if the Examiner is relying on a prior art reference, the Examiner needs to cite the reference. Otherwise, Applicant respectfully requests that the assertion be withdrawn.

Claim 4

Claims 4, at least based on its dependency on Claim 1, is also believed to be patentable over Melanson et al.

Claim 5

Regarding to claim 5, as similarly applied to claim 1, set forth above, Melanson et al (6,822,594) does not disclose, suggest, or teaches that the procedure “204” can inherently **spectrally shape NLISI**. Applicant respectfully requests that the assertion be withdrawn.

Claims Objections

Claims 2, 3 and 6-10, at least based on their respective dependencies on Claim 1 or 5, are also believed to be patentable. Applicant respectfully requests that the objections be withdrawn.

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Conclusion

In view of the above, reconsideration and allowance of all the claims are respectfully solicited.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 50-3984. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 50-3984.

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6-25-2007

(Date of Deposit)

Derek W Yeung

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6-25-2007

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Respectfully submitted,

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